

**IN THE HIGH COURT OF MADHYA PRADESH**  
**AT GWALIOR**  
**BEFORE**  
**HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE**  
**WRIT PETITION No. 2082 of 2014**  
***DILSHAAD***  
*Versus*  
***THE STATE OF MADHYA PRADESH AND OTHERS***

**Appearance:**

*Shri Naval Kishore Chaturvedi - Advocate for the petitioner.*

*Shri Deepak Khot - Ga appearing on behalf of State.*

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Reserved on	08/04/2025
Delivered on	17/04/2025

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**ORDER**

The present petition under Article 226 of the Constitution of India has been filed by the petitioner seeking following reliefs:

*“ It is humbly prayed that writ petition may kindly be allowed and the orders impugned Annexure P/1, P/2 and P/3 may kindly be set aside and order dated 10.01.2002 passed by Naib Tehsildar, Circle Manpur, Tehsil and District Sheopur may kindly be restored. Any other writ, order and direction as this Hon'ble Court may*

*deems fit in the facts and circumstances of the case be granted. Cost be awarded.”*

2. Learned counsel for the petitioner has submitted that from bare perusal of the impugned order dated 10.01.2014, it would be evident that it's a non-speaking order and had been passed without applying its mind to the entire facts and circumstances, or had been passed without recording a valid and justifiable reason or on the basis of any plausible ground in support of its conclusion, so also as under what provisions of the law, it has been passed is unknown, therefore, it deserves to be quashed.

3. Relying upon the judgment passed by the Hon'ble Apex Court in the case of **Kranti Associates Private Limited and Anr. Vs. Masood Ahmed Khan and Others** reported in **(2010) 9 SCC 496**, it was contended that the reasons are the heartbeat of the order and in absence thereof, the order cannot be said to be alive. It was thus prayed that the impugned order herein be set aside and the matter may be remitted back to the Collector for deciding the same by passing reasoned and speaking order in accordance with law.

4. *Per contra*, learned Counsel for the respondents had opposed the prayer so made by counsel for the petitioner and had prayed for dismissal of the petition.

5. Heard counsel for the parties and perused the record.

6. It is settled law that the authority must apply its mind to the entire facts and circumstances and record valid and justifiable reasons or grounds in support of its conclusion. On perusal of the impugned order, it does not appear to be a speaking one.

7. It is a settled position of law that when a discretion is vested in an authority to exercise a particular power, the same is required to be exercised with due diligence, and in reasonable and rational manner. The Hon'ble Supreme Court in catena of decisions has reiterated time and again the necessity and importance of giving reasons by the authority in support of its decision. It has been held that the face of an order passed by a quasi-judicial authority or even by an administrative authority affecting the rights of parties must speak. The affected party must know how his case or defence was considered before passing the prejudicial order.

8. The decision of the Hon'ble Supreme Court in the case of **State of Punjab v/s. Bandip Singh and others reported in (2016) 1 SCC 724** is also relevant to quote. In the said decision it had been held by the Hon'ble Supreme Court that every decision of an administrative or executive nature must be a composite and self-sustaining one, in that it should contain all the reasons which prevailed on the official taking the decision to arrive at its conclusion.

9. In the same judgment in paragraph 7, the Hon'ble Supreme Court clarifies that the Government does not have carte blanche to take any decision it chooses to; it cannot take a capricious, arbitrary or prejudiced decision. Its decision must be informed and impregnated with reasons. Paragraph 7 of the said decision is quoted as under:-

*“7. The same principle was upheld more recently in Ram Kishun v. State of U.P. (2012) 11 SCC 511 : (2013) 1 SCC (Civ) 382. However, we must hasten to clarify that the Government does not have a carte blanche to take any decision it chooses to; it cannot take a capricious, arbitrary or prejudiced decision. Its decision must be informed and impregnated with reasons. This has already been discussed threadbare in several decisions of this Court, including in Sterling*

*Computers Ltd. v. M & N Publications Ltd (1993) 1 SCC 445, Tata Cellular v. Union of India (1994) 6 SCC 651, Air India Ltd. v. Cochin International Airport Ltd. (2000) 2 SCC 617, B.S.N. Joshi & Sons Ltd. v. Nair Coal Services Ltd. (2006) 11 SCC 548 and Jagdish Mandal v. State of Orissa (2007) 14 SCC 517” 31.*

10. Also the decision of the Hon'ble Supreme Court in the case of **Kranti Associates Pvt. Ltd. and another v/s Masood Ahmed Khan (supra)** highlights this point. The Hon'ble Supreme Court in paragraph 15 opined that the face of an order passed by a quasi judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the inscrutable face of a sphinx. The Hon'ble Apex Court in the aforesaid matter in para 47 has laid certain principles with regard to necessity of passing the reasoned/speaking order, which reads as under:-

*"a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*

*b. A quasi-judicial authority must record reasons in support of its conclusions.*

*c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*

*d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative*

*power.*

*e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*

*f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*

*g. Reasons facilitate the process of judicial review by superior Courts.*

*h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.*

*i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*

*j. Insistence on reason is a requirement for both judicial accountability and transparency.*

*k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*

*l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.*

*m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial*

*powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).*

*n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".*

*o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process"*

6. In the light of the above discussion and considering the judgment rendered by Hon'ble Apex Court in **Ms. Kranti Associates and Others (supra)**, this Court deems it fit to set aside the order dated 10.01.2014, (Annexure P/1) passed by the Revenue Board and **remit** the matter back to the Board of Revenue to decide the matter afresh by passing a reasoned and speaking order in accordance with law after giving proper opportunity of hearing to the parties concerned within a period of

**four weeks** from the date of receiving certified copy of this order.

7. With the aforesaid observations, the present petition is  
**disposed of** finally.

chandni/

(Milind Ramesh Phadke)

Judge

**17/04/2025**